



## East Timor

### Country Reports on Human Rights Practices - [2003](#)

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East Timor became a fully independent republic in May 2002, following approximately 2½ years under the authority of the U.N. Transitional Administration in East Timor (UNTAET). The country has a parliamentary form of government with its first parliament formed from the 88-member Constituent Assembly chosen in free and fair, U.N.-supervised elections in 2001. The 29-member Cabinet is dominated by the Fretilin Party, which won the majority of Assembly seats. Mari Alkatiri, Fretilin's Secretary General, is Prime Minister and Head of Government, and Xanana Gusmao, elected in free and fair elections in April 2002, is President and Head of State. UNTAET's mandate ended with independence but a successor organization, the U.N. Mission of Support in East Timor (UNMISET), was established. The Constitution ratified in March 2002 provides that "laws and regulations in force continue to be applicable to all matters except to the extent that they are inconsistent with the Constitution." Under this provision, many Indonesian and UNTAET laws and regulations remain in effect. Regulations providing for an independent judiciary generally were respected; however, at times, the judicial system was inefficient and inconsistent.

UNMISET maintains responsibility and command of the U.N. Peace Keeping Force (UNPKF) and the U.N. Police Forces (UNPOL). In addition to providing interim law enforcement and public security, UNMISET is assisting in the development of the national police service, the Policia Nacional de Timor-Leste (PNTL). During the year, UNPOL transferred authority for internal law and order district by district; Dili, the last district, was turned over to the PNTL on December 10. UNPOL is expected to end operations, except for a small advisory unit, in May 2004. A national defense force, Falintil-Forca Defesa Timor-Leste (F-FDTL), is gradually assuming responsibility for external defense from UNPKF, and UNPKF continued to reduce its presence during the year. UNMISET's mandate is scheduled to be phased out completely by June 30, 2004. The PNTL is responsible to the civilian Minister of Internal Administration, and the F-FDTL is responsible to the civilian Secretary of State for Defense. While civilian authorities generally maintained effective control of the security forces, there were a few instances when members of the security forces acted independently of government authority. Some members of the PNTL and F-FDTL committed human rights abuses.

The country is extremely poor, with two-thirds to three-fourths of the population of 775,000 persons engaged in subsistence agriculture. Per capita gross domestic product was approximately \$478 per year. An estimated 70 to 80 percent of the country's infrastructure was damaged severely by the systematic scorched-earth campaign that Indonesian military and militia forces conducted in 1999 as they withdrew. The majority of the population has basic shelter and sufficient food supplies. Low-level commercial activity has resumed, and primarily serves the large foreign presence. The rural agricultural economy has recovered significantly, but the country remained dependent on imported food. Coffee remained the territory's only significant export, but falling world prices limited export earnings. In May 2002, the country concluded an interim agreement with Australia to share revenue from the potentially lucrative Timor Gap oil and gas region, from which significant production revenues have been predicted to begin in 2006. This agreement replaced the 2001 agreement signed between UNTAET and Australia. Property ownership disputes and the lack of a comprehensive commercial code hindered investment and related long-term development. Urban unemployment and wage and price inflation remained significant problems. Most observers believed that the country would remain heavily dependent on foreign assistance for the next several years.

The Government generally respected the human rights of its citizens; however, there were problems in some areas. There were numerous reports of excessive use of force and abuse of authority by police officers. Prolonged pretrial detention was a problem. The rights to due process and to an expeditious fair trial often were denied or restricted, largely due to severe shortages of resources and lack of trained personnel in the legal system; there were also reports of abuse of authority by government officials. It was not clear how many refugees or displaced persons wished to return to the country but felt unable to do so either because of fear of reprisals from militias in West Timor or because of attacks and harassment of returnees suspected of being former militia members. Domestic violence against women was a problem, and there were instances of rape and sexual abuse. The country also lacked the infrastructure to care adequately for persons with mental or physical disabilities. Child labor in the informal sector occurred, and there were reports of trafficking in persons.

#### RESPECT FOR HUMAN RIGHTS

## Section 1 Respect for the Integrity of the Person, Including Freedom From:

## a. Arbitrary or Unlawful Deprivation of Life

There were no reports of political killings during the year; however, on September 19, an officer from the Border Protection Unit shot and killed a fugitive militia leader, Francisco Vegas Bili Atu, as he crossed into East Timor from West Timor. While security forces claimed that the shooting was in self-defense, there were credible reports that excessive force may have been used. The Serious Crimes Unit of the office of the Prosecutor General (SCU) had indicted Atu in February on seven counts of crimes against humanity, including three counts of murder, for his role in the 1999 conflict. At year's end, the official investigation into the incident and the officer who shot Atu was ongoing.

No official action has been taken against members of the security forces for the killing of two participants in the December 2002 riots, and at year's end it appeared unlikely that the individuals who fired the fatal bullets would be identified. An investigation conducted by UNMISSET concluded that investigators were unable to identify who had killed the two protestors because various weapons, used by both UNPOL officers and PNTL officers, were fired by a number of security personnel.

In early January near Atsabe, a group of 12 to 15 attackers killed 6 persons who had been associated with the independence movement prior to the 1999 referendum. Eyewitnesses identified the group as pro-integration militia members. At year's end, the perpetrators were believed to have escaped to Indonesia, the investigation had stalled, and no charges had been filed.

On February 24, 10 men attacked a bus near Aidabaleten, killing 2 persons and injuring several others, including 2 pregnant women. One attacker was seriously injured in a shootout with UNPKF troops. He later died in police custody. Several others were captured and admitted to being members of pro-integration militias who had entered the country for the purpose of destabilization. Of those captured, six men, including the man who died in custody, were arrested on suspicion of rebellion against the Government. At year's end, two of these men had been indicted for crimes related to the incident and were in pretrial detention. The other three were released conditionally, although the prosecutor's office reserved the right to issue future indictments.

## b. Disappearance

There were no reports of politically motivated disappearances.

## c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Constitution prohibits such practices, and the Government generally respected the prohibition against torture; however, there were incidents of cruel or degrading treatment by police officers. For example, on June 8, members of the PNTL Rapid Intervention Unit reportedly assaulted and severely beat a man when the Unit was breaking up a clash between martial arts gangs in a Dili market. On July 22, a police officer joined community members in the abuse of a 16-year old deaf and mute boy who had been accused of petty theft. The boy was tied to a tree and beaten and burned with cigarettes. Another off-duty police officer observed the abuse but did not intervene. The Professional Standards Unit of the PNTL (PSU) investigated the officers involved and recommended discipline to the PNTL Commissioner, but at year's end no action had been taken on this case. On September 3, off-duty police officers who were reportedly intoxicated stopped a motorcycle for a routine traffic violation. Upon learning the identity of the rider, a member of the armed forces who had reportedly been involved in a previous altercation with police officers, the officers beat and kicked him, breaking two ribs, before arresting him. The following morning several soldiers, including some armed with M-16 rifles, went to the police station to secure his release. One of the police officers involved has been dismissed and was in detention awaiting trial at year's end.

The PSU is charged with investigating allegations of police misconduct or abuse of authority. The PSU reports the results to the PNTL Commissioner who may choose to take action or to reject the PSU recommendations. During the year, some officers were punished for misconduct; however, in some cases no action had been taken by year's end. There were allegations that personal connections within the police force were a factor in some of these cases.

There were reports of sexual abuse by police officers during the year. For example, in August, a BPU officer reportedly refused to return the passports of two alleged prostitutes or process their visa applications unless they had sex with him. One of the women reported that the same officer made such demands on a number of different occasions. A common problem was the delay or refusal by police to investigate allegations of rape or domestic violence (see Section 5).

Prison conditions generally met international standards; however, prison facilities were deteriorating, and there were a few reports of undisciplined behavior by prison guards. The deterioration of Gleno prison's infrastructure gave rise to safety and security concerns. Gleno prison also has suffered from severe water shortages during the year. In addition, there were reports of mistreatment of prisoners. On June 18, a prison guard at Baucau prison reportedly beat and injured a new inmate while other officers looked on. The inmate was not given medical treatment until the following morning. A criminal case has been filed against the guard; however, by year's end, it had not been heard due to delays in the court system.

Except in cases where juveniles request to be incarcerated elsewhere, Becora prison, which has a separate cellblock for

juveniles, is used to incarcerate juvenile prisoners. There were no separate juvenile facilities at the Gleno or Baucau prisons. When juveniles are detained at Gleno or Baucau, they are generally forwarded to Becora as soon as possible. All female prisoners are held in separate facilities in Gleno and Baucau. There were two full-time social workers to deal with juveniles, women, the elderly, and mentally ill inmates. All prisons operated at or very near capacity throughout the year; however, there were no reports of severe overcrowding at any facility.

The Government permitted prison visits by independent human rights observers.

#### d. Arbitrary Arrest, Detention, or Exile

The Constitution prohibits arbitrary arrest and detention; however, there were a few instances in which these provisions were violated. On May 27, police arrested a juvenile and reportedly held him for more than 2 days without allowing him to contact his parents. Although detentions such as these are often due to slow legal proceedings, the circumstances of this case and others suggested that police officers might have held detainees as a form of punishment. After pro-integration militia members attacked a village and commandeered a bus near the border with West Timor (see Section 1.a.), F-FDTL searched area villages for the perpetrators and arrested dozens of suspects. The evidence against many of these suspects was reportedly limited to their association with an organization that was suspected of cooperation with militias. After a few days in detention, the courts released the majority of the suspects, and over the following 2 weeks released the remainder. In another case, a human rights group reported that a man arrested in 2001 for drunk and disorderly conduct was never charged or indicted, but was not released until January.

Following the atrocities in 1999, the U.N. assumed responsibility for policing and public security in the country and, in accordance with its U.N. Security Council mandate, initiated a program to establish, train, and equip a national police force capable of assuming responsibility for the country's law enforcement. Several nations assisted bilaterally in this process. In May 2002, the U.N. began transferring authority for law enforcement on a district-by-district basis to PNTL.

Despite the training and support received from the international community, the PNTL remained both ill equipped and under-trained, and there were numerous credible allegations of abuse of authority (see Section 1.c.), mishandling of firearms, and corruption. During the year, reports of abuse of authority and unprofessional conduct increased as policing authority was shifted from the U.N. to the PNTL. There were credible reports that some PNTL officers had demanded free meals at restaurants, as well as allegations that some officers had demanded money from business establishments. Complaints about unethical conduct by traffic police also were common.

The PNTL were often slow to respond, willing to overlook required procedures, or ill equipped to complete an investigation or arrest. In June, police reportedly failed to arrest a murder suspect in Railako because they had no vehicle at their disposal.

In a few cases, police were influenced by political pressures. On April 19, a Malaysian businessman was arrested after turning away a senior government official who wanted to inspect his property and business licensing documents. The official had no documentation or identification indicating that he had authority to make such a request. A verbal altercation ensued during which the official was locked within the premises. The government official then called a more senior official who came to the scene and ordered the businessman arrested. During the man's detention, police seized his passport and business records. On May 29, when the man's habeas corpus application was heard, the investigating judge found in favor of the Malaysian businessman, noting among other things that the officials in question had no authority to order an arrest. On May 30, the businessman was detained again on different charges and held for approximately 30 days before being conditionally released when a judge ruled on a second habeas corpus application, declaring that another judge's order approving the man's detention was inconsistent with the governing UNTAET regulations. On November 11, the Court of Appeals ruled in favor of the businessman, releasing him unconditionally on the grounds that there was not enough evidence to keep him detained for the alleged crimes. At year's end, the businessman was free but unable to obtain the export permit required to continue his operations.

Government regulations require a hearing within 72 hours of arrest to review the lawfulness of the arrest and detention, and also provide the right to a trial without undue delay. However, because of a shortage of magistrates, many suspects were forced to wait longer than 72 hours for a hearing. This situation was particularly acute in areas that did not have a local magistrate or where authorities lacked a ready means to transport suspects to a hearing. Some prosecutors have, in violation of applicable regulations, granted police the authority to detain persons beyond 72 hours.

On September 12, the Court of Appeals made a controversial ruling affecting pretrial detention. An UNTAET regulation provides that an Investigating Judge must review pretrial detention every 30 days and choose whether to permit further detention of a person, and that the maximum period of pretrial detention is 6 months. Another regulation allows judges to order the detention of defendants charged with certain serious crimes for any period that is "reasonable in the circumstances." The Court held that this regulation provided an exception not only to the maximum period of detention, but also to the 30-day review rule. The Court made clear that judicial review of continuing detention is still required when new facts or changed circumstances may warrant further detention. Some human rights advocates criticized the opinion, arguing that it is an incorrect reading of the regulations that unduly restricts the rights of criminal defendants.

Prior to the September ruling by the Court of Appeals, the 30-day review deadline had been missed in an estimated 38 percent of all cases involving pretrial detainees during the year, an increase from approximately 25 percent the previous year. During

the year, an average of 60 percent of the prison population were pre-trial detainees. On March 19, the East Timor National Mental Health Service reported an increase in mental health problems in pretrial inmates, which the health service attributed to isolation, especially from detainees' families, and uncertainties surrounding their trials. On May 13, a 17-year-old inmate attempted suicide twice after being in pretrial detention for more than 5 months.

The Constitution prohibits forced exile, and the Government did not employ it.

#### e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary. The Court Law provides that judges shall perform their duties "independently and impartially" without "improper influence." UNTAET regulations, still in force, include a Prosecution Law that requires public prosecutors to discharge their duties impartially. These regulations generally were respected.

The civil law court system includes four district courts (Dili, Baucau, Suai, and Oecussi) and one national Court of Appeal in Dili. The Ministry of Justice is responsible for administration of the courts and prisons and provides defense representation as well. The Prosecutor General is responsible for initiating indictments and prosecutions. The Government continued to make progress in establishing institutions that comprise the justice sector, but faced serious limitations in recruiting and training qualified judges, prosecutors, and defense attorneys. The judiciary's shortage of personnel, as well as bureaucratic and managerial inefficiency, contributed to the Government's inability to provide for expeditious trials (see Section 1.d.).

The Appeals Court became fully functional and heard its first cases in July. The Appeals Court is responsible for adjudicating appeals from the district courts. Until a Supreme Court is established, the Appeals Court will remain the country's highest tribunal.

Shortages of legal and judicial personnel affected the entire legal system, but affected disproportionately the operations of the Oecussi and Suai District Courts. During the year, the Oecussi District Court operated only at irregular intervals; in February, the Suai District Court completely ceased to function in Suai, although it convened sporadically in Dili.

The shortage of trained personnel also led to trials that were contrary to prescribed legal procedures. For example, the Oecussi District Court reportedly tried a suspect without legal representation rather than waiting for a public defender to become available. The Dili District Court reportedly tried and sentenced a defendant in absentia without notifying the defendant of his trial date and following any of the required preliminary procedures, such as the defense's response to the indictment or holding any preliminary hearings. In another case, the Appeals Court reportedly extended the 7-year sentence of a man found guilty of rape to 10 years without notifying the defendant of the hearing date in advance or providing him with legal representation.

Most trial judges and prosecutors had been trained only in Indonesian law and received their legal education in the Indonesian language, while most appellate judges and many senior government officials were trained elsewhere and speak little or no Indonesian. The Court of Appeal operated primarily in Portuguese, and a number of trial judges were being trained in Portugal. The UNTAET regulations, many of which are still in force, were available in English, Portuguese, and Indonesian, as well as in Tetum, the language most widely spoken in the country. Laws enacted by Parliament, intended to gradually supplant the Indonesian laws and UNTAET regulations, were published only in Portuguese, and many litigants, witnesses, and criminal defendants were unable to read the new laws.

The SCU, established by UNTAET in 2000, is responsible for investigations and indictments concerning genocide, war crimes, crimes against humanity, murder, sexual offenses, and torture that occurred in 1999. By year's end, the SCU had filed 81 indictments against 369 persons. Of these, 281 indictees remained at large in Indonesia with little chance of being returned to stand trial. In 2000, UNTAET established the Special Panels on Serious Crimes within the Dili District Court to try those charged with the mass killings and other gross human rights violations committed in 1999. The two Special Panels, each of which consists of two foreign judges and one local judge, have exclusive and "universal" jurisdiction to adjudicate cases concerning these human rights violations. By year's end, the Special Panels handed down 46 convictions, 1 acquittal, and 2 indictment dismissals.

The SCU worked very closely with the Comissao de Acolhimento, Verdade e Reconciliacao de Timor Leste (CAVR), or Truth and Reconciliation Commission of East Timor. While the SCU is mandated to investigate and prosecute crimes against humanity committed in 1999, the CAVR investigates human rights violations that occurred between April 1974 and October 1999. CAVR also facilitates reconciliation between victims and perpetrators of these violations (see Section 4).

There were no reports of political prisoners.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits such actions, and the Government generally respected these prohibitions in practice; however, there were a few reports of arbitrary interference with privacy, family, home, and correspondence. For example, on July 28, the Government seized the home of a popular opposition leader on questionable legal grounds. Although the legal merits of the case were unclear, many citizens and international observers believed that the timing of the action was politically motivated. The

case was appealed to the courts; however, the trial had not begun at year's end.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respected these rights in practice; however there were a few instances when government officials attempted to interfere with the press. For example, in August, a senior government official requested in writing that journalists working for the public broadcasting service be disciplined or criminally prosecuted because of their coverage of the eviction of a popular opposition leader (see Section 1.f.). In September, the Government notified one of Dili's two major daily newspapers that it must begin paying rent for the space it was using in a government building. UNTAET had permitted the newspaper to use the space without paying rent. After the newspaper agreed to lease the space, the Government reportedly reversed its position and issued a notice of eviction. Shortly before the issuance of this notice, a senior government official criticized publicly the newspaper's coverage of a case of alleged corruption and threatened to close the paper. At year's end, the newspaper was still waiting to hear whether the Government would offer a fair market price or follow through with the eviction. The newspaper continued to operate normally.

There are two daily newspapers, two weeklies, and several bulletin newspapers that appear sporadically. Their editorials freely criticized the Government and other political entities.

The Public Broadcast Service (PBS) owned and operated a radio station and a television station. The PBS radio service was available throughout the country. The PBS broadcast television was available only in Dili and Baucau. In addition to the PBS radio station, there were 16 additional community radio stations including at least 1 in each district. Radio is the most important news medium for most of the country.

There were no legal or administrative restrictions on Internet access.

The Government did not restrict academic freedom.

### b. Freedom of Peaceful Assembly and Association

The Constitution provides for the freedom of assembly and association, and the Government generally respected these rights in practice.

### c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respected this right in practice. More than 90 percent of the population is Roman Catholic, and there are small Protestant and Muslim minorities. Generally, religious minorities are well integrated in society. A group of Muslims of Malay descent had difficulty integrating into society and obtaining citizenship; however, this problem did not appear to be related to religion. Ethnic Timorese Muslims have not faced the same difficulties. During the year, there also were some reports that Protestant evangelists and their converts had been threatened and in some cases assaulted by members of the communities in which they were proselytizing and that the legal system was slow to respond to these charges.

For a more detailed discussion, see the [2003 International Religious Freedom Report](#).

### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The law provides for these rights, and the Government generally respected them in practice.

The conflicts in 1999 and pro-integration militia activity in 2000 and 2001 resulted in 250,000 East Timorese fleeing their homes and crossing the border into West Timor. By 2002, roughly 225,000 had returned home. During the year, an additional small number of East Timorese returned from West Timor. Although the Constitution protects citizens from expulsion and there is no crime of illegal entry of a citizen, confusion regarding the handling of returnees resulted in a number of detentions and near deportations of citizens. For example, on February 9, police officers mistakenly attempted to deport a family of five persons who returned to Oecussi. This case was resolved only after the office of the U.N. High Commissioner for Refugees (UNHCR) intervened on behalf of the family. In another case, an Investigating Judge reportedly issued a deportation order against a person who had returned to the country through an unofficial border crossing, without providing the person an opportunity to prove his citizenship in court. An appeal was pending at year's end. Parliament has subsequently passed the Immigration and Asylum Act that states, "All citizens who can prove East Timor citizenship have the right to enter the National Territory."

The Constitution provides for the granting of refugee status or asylum to persons who meet the definition in the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. However, there were concerns that the country's regulations governing asylum and refugee status may preclude genuine refugees from proving their eligibility for such status.

For example, persons applying for asylum have only 72 hours to do so after entry into East Timor. Foreign nationals already present in the country have only 72 hours to implement the process after the situation in their home country becomes too dangerous for them to safely return. A number of human rights and refugee advocates maintained that this time limit contravenes the 1951 Convention. These advocates also expressed concern that no written reasons are required when an asylum application is denied.

There were 14 applicants for asylum during the year. At year's end, two had been accepted under the UNHCR mandate, along with one refugee who applied in 2002. After the promulgation of the new Immigration and Asylum Act in September, responsibility for adjudicating the claims of asylum seekers shifted from UNHCR to the Government.

### Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully through periodic elections. In May 2002, Xanana Gusmao was inaugurated as the first President, and, in accordance with the Constitution, the members of the Constituent Assembly were sworn in as the first National Parliament. At that time, Mari Alkatiri became the first Prime Minister of the country. The 88-member Assembly, elected in 2001, was charged with writing a constitution, which was completed in March 2002 and came into effect upon independence. Some observers criticized the provision under which the Constituent Assembly automatically became the Parliament and a parliamentary election is not required until 5 years after independence.

There were 23 women in the 88-seat Assembly. Women held two senior cabinet positions, Minister of State and Minister of Finance and Planning, and three vice minister positions. One of the three judges on the Appeals Court was a woman.

Small ethnic minority groups existed within the country. They generally were well integrated into society; therefore, the number of members of such groups in Parliament and other government positions was uncertain. Citizens of minority ethnicity are not precluded from holding office. Both the Prime Minister and the Secretary of State for Defense are members of ethnic minority groups.

### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Nongovernmental organizations (NGOs) have played an active role in assisting and advising in the development of the country, and numerous NGOs were established over the last 3 years.

The new Immigration and Asylum Act passed in September contains provisions that may limit the work of international NGOs, particularly those engaged in human rights advocacy. According to the new law, foreigners are prohibited from taking part in political activities. Specifically, foreigners may not engage, organize, or participate in activities including parades, rallies, and meetings of a political nature or that involve the affairs of the State. This provision could preclude foreigners and international NGOs from assisting labor unions or projects to promote the development of civil society. The rule could also allow the Government to restrict non-citizens from monitoring the criminal or judicial systems. There is a narrow exception in the new law, which exempts activities contracted by government institutions, funded by bilateral or multilateral assistance programs, and aimed at training or strengthening democratic institutions, which are constitutional and regulated by law or strictly academic in nature. A separate provision of the law allows the Government to prohibit foreigners from holding conferences and cultural exhibitions if the Government believes that the activities would jeopardize the interests of the country.

Although Parliament originally passed the bill on April 30, the President exercised his prerogative to request a constitutional review of the bill by the Appeals Court. After the Appeals Court found Articles 11 and 12 unconstitutional, the President vetoed the bill; however, on September 29, Parliament, by a two-thirds majority, voted to override the President's veto. The President subsequently signed the law, and it went into effect on October 15.

During the controversy over passage of the Immigration and Asylum Act, government officials repeatedly stated that the Act would not be used to restrict the legitimate activities of NGOs. However, in November, government officials threatened to use the Act against the International Republican Institute (IRI), which normally operated without government interference. In response to advance press reports that characterized the results of an IRI-sponsored public opinion poll as unfavorable to the Prime Minister, personnel from the office of the Prime Minister called to inform the IRI that the Prime Minister would declare the IRI to be in violation of the Immigration and Asylum Act. The IRI held its press conference announcing the poll results, and the Government did not declare that the IRI had violated the law; however, later in November, members of Parliament told the IRI that the President of Parliament had ordered them to stop attending meetings of the Women's Caucus that were sponsored by the IRI.

The Constitution mandates the creation of a Provedor (Ombudsman). On July 23, the Prime Minister and the Council of Ministers approved legislation to implement this provision, but had yet to submit the legislation to Parliament by year's end.

The CAVR, charged with inquiring into past human rights violations, is headed by 7 national commissioners and 29 regional commissioners in 6 regional offices. The CAVR seeks truth and reconciliation through testimonials by victims and perpetrators

of human rights violations. The Commission held numerous reconciliation meetings in locations throughout the country, in which perpetrators of relatively minor crimes during the 1999 campaign of violence confessed to their offenses and were reconciled with their victims and their communities. The CAVR has also addressed broader issues through public hearings and testimonials. For example, the CAVR held a 2-day public hearing on Women and Conflict, in which 14 women testified that they were subjected to or witnessed human rights violations including rape, destruction of homes, coercive family planning practices, and exiling of family members during the Indonesian occupation. The CAVR held a similar hearing on forced displacement and famine, and another to hear eyewitness testimony regarding several of the major massacres that occurred in the country during the occupation.

#### Section 5 Discrimination Based on Race, Sex, Disability, Language, or Social Status

Government regulations prohibit all forms of discrimination. Nonetheless, violence against women was a problem, and discrimination against women, persons with disabilities, and members of minority groups occurred.

##### Women

Domestic violence against women was a significant problem, and sometimes was exacerbated by the reluctance of authorities to respond aggressively to cases of alleged domestic violence. For example, a woman was hospitalized, allegedly after her husband beat her severely; however, police reportedly knew of the incident but did not act because the woman had not made an official complaint. In another case, a man brutally beat his pregnant sister, but the authorities dropped the matter after ordering him to report to authorities weekly for 2 months.

In some cases, a lack of resources was used to justify official inaction and failure to investigate or prosecute cases involving violence against women. For example, in May, police cited a lack of transportation as the reason they failed to arrest two chronic perpetrators of domestic violence. In another case, a man convicted of domestic violence charges was released on probation but was rearrested after he committed further acts of domestic violence. The man escaped from police custody 2 days later and returned to his wife's house. He was not rearrested for 2 weeks even though the police knew he was at his wife's house because, according to police, the officers lacked transportation.

Failures to investigate or prosecute, as well as long delays, also were common in cases of alleged rape and sexual abuse. While there were some examples of the justice system effectively pursuing cases involving violence against women, many cases were not pursued. For example, a man allegedly attempted to rape his 5-year-old niece on several occasions, the last on April 25. When the case was brought before a judge, the child's mother reportedly said she wanted to resolve the case using traditional law, and the judge released the suspect from custody. In another case, a woman who had been sexually assaulted took her case to police after failing to receive redress using traditional law. Police reportedly told her to drop the case because they claimed incorrectly that sexual abuse not resulting in rape is a civil rather than criminal matter. In yet another case, a woman believed to have a mental illness reported being raped by two men but did not receive medical care or an examination because the local police had no means to transport the woman to Dili. The two men were not prosecuted.

Official discrimination or lack of interest has also been alleged in cases in which women were victims of other crimes including homicide, kidnapping, and assault.

Government regulations prohibit persons from organizing prostitution; however, prostitution itself is not illegal. The Government had deported some alleged prostitutes on the grounds that they violated the terms of their visas.

There were no reports of gender-based employment discrimination during the year; however, women usually deferred to men when job opportunities arose at the village level.

Some customary practices discriminate against women. For example, in some regions or villages where traditional practices hold sway, women may not inherit or own property.

UNTAET created a Gender Affairs Unit, and this unit continued under the Government as the Office for the Promotion of Equality within the Prime Minister's office. The unit provided training to women entering public service and attempted to ensure women have a voice in the new government and civil society structures.

The East Timorese Women's Forum (FOKUPERS) offered some assistance to women who have been victims of violence and established a women and children's shelter for victims of domestic violence and incest. East Timor Women against Violence is a human rights NGO that supports women's rights. Various other NGOs have supported women through microcredit lending.

##### Children

The Constitution stipulates that primary education shall be compulsory and free; however, no legislation establishing a minimum level of education to be provided has been adopted, nor has a system been established to provide for free education. According to a U.N. study, approximately 25 percent of primary education age children nationwide were not enrolled in school. The figures for rural areas were substantially worse than those for urban areas. Only 30 percent of children in lower secondary education

(ages 13-15) were enrolled, with an even greater difference between urban and rural areas. At least 10 percent of children do not even begin school. These statistics are fairly consistent for both male and female students.

The low rate of vaccinations against communicable diseases was a serious concern. The U.N. estimated that only 5 percent of children between 12 and 23 months had been fully vaccinated and that 58 percent of children in this age range had not received any vaccinations. Under the U.N.'s Extended Program on Immunization, vaccinations and refrigeration equipment have been supplied to clinics in locations around the country. However, accessibility to these clinics and the lack of understanding of the need for vaccinations remained problems.

#### Persons with Disabilities

Although the Constitution protects the rights of persons with disabilities, the Government has not enacted legislation or otherwise mandated accessibility to buildings for persons with disabilities, nor does the law prohibit discrimination against persons with disabilities. Nonetheless, there were no reports of discrimination against persons with disabilities in employment, in education, or in the provision of other state services; however, difficult access to schools in many districts resulted in many children with disabilities not attending school. Training and vocational initiatives did not give attention to the needs of persons with disabilities. During the year, some persons with mental disabilities faced discriminatory and/or degrading treatment due in part to a lack of appropriate treatment resources. In April, police detained a mentally disabled man in the local jail because there were no mental health facilities to care for him. He was released several weeks later. There were also reports in which families used shackles to restrain a family member with a mental illness because they did not have access to proper treatment facilities. Mental health authorities were able to intervene and provide treatment in some cases, but in general lacked the resources and staff to treat more than a small fraction of the country's mental health cases.

#### National/Racial/Ethnic Minorities

Ethnic Chinese (who make up less than 1 percent of the population) and ethnic-Malay Muslims were sometimes discriminated against. Tensions between different language groups also were a problem. The adoption of Tetum and Portuguese as the two official languages appeared to exclude some non-Portuguese speakers from non-Tetum speaking regions of the country from political and civil service positions.

#### Section 6 Worker Rights

##### a. The Right of Association

The country has a labor code based on the International Labor Organizations (ILO) standards. The law permits workers to form and join worker organizations without prior authorization. Unions may draft their own constitutions and rules and elect their representatives; however, attempts to organize workers generally have been slowed by inexperience and a lack of organizational skills. During the year, the Government established official registration procedures for trade unions and employer organizations.

Although there are no restrictions that would prevent unions from forming or joining federations or from affiliating with international bodies, the Immigration and Asylum Act prohibits foreigners from participating in the administration of trade unions.

##### b. The Right to Organize and Bargain Collectively

While collective bargaining is permitted, workers generally had little experience negotiating contracts, promoting worker rights, or engaging in collective bargaining and negotiations.

The law provides for the right to strike, but few workers exercised this right during the year. In April, taxi drivers staged a brief strike. In September, some airport workers went on strike to protest the firing of two colleagues. This strike was allowed to continue peacefully even after a foreign labor leader was arrested for assaulting a police officer.

On December 4, Chubb Security fired 32 employees contracted to the World Bank for striking. The striking employees were protesting a wage cut implemented as a result of a new contract between the World Bank and Chubb Security several months earlier. Prior to the strike, the workers conducted 8 days of nonviolent picketing outside the World Bank offices. According to the labor union representing the workers, Chubb Security violated the rights of the workers because it failed to give the legally mandated 30 days' notification prior to termination. Chubb Security defended its action by citing a clause in the labor law, which prohibits employees who provide an essential service, such as police, medical professionals, and persons providing public transportation, from striking. A government official stated that this case is expected to be resolved by the Labor Relations Board as soon as the members of the board are sworn in.

There are no export processing zones.

##### c. Prohibition of Forced or Bonded Labor



Government regulations prohibit forced and bonded labor, including by children, and there were no reports that such practices occurred during the year. However, in the past, local leaders required a number of returnees accused of involvement in the post-September 1999 destruction to engage in compulsory labor as a means of punishing them for their alleged offenses. Examples of such compulsory labor included repairing damaged structures and community service in villages. The Government tolerated this practice. More recently the imposition of compulsory labor gave way to a "reception, truth, and reconciliation" process in which returning ex-militia members agreed to perform community service as a form of reparation for offenses they committed.

#### d. Status of Child Labor Practices and Minimum Age for Employment

The Labor Code largely prohibits children under the age of 18 from working; however, there are circumstances under which children between the ages of 15 to 18 can work, and there are even exceptional exemptions for children under 15. The minimum age did not apply to family-owned businesses, and many children work in the agricultural sector. In practice enforcement of the Labor Code outside of Dili was limited.

#### e. Acceptable Conditions of Work

The Labor Code does not stipulate formally a minimum wage; however, employers generally used and employees expected a wage of \$85 per month as a minimum standard. The Labor Code provides for a maximum workweek and overtime, minimum standards of worker health and safety, days off, and other standard benefits. As required by the Labor Code, the Government nominated members to the National Labor Board, the Labor Relations Board, and the Minimum Wage Board. These boards are expected to receive training and begin work early in 2004. In addition, there are no restrictions on the rights of workers to file complaints and seek redress within these codes or other legislation. Workers have the right to remove themselves from hazardous conditions without jeopardizing employment; however, it was not clear that they could avail themselves of this right in practice. The law treats all workers, legal and illegal, the same in terms of wages and working conditions.

#### f. Trafficking in Persons

The law prohibits trafficking in women and children, whether for the purposes of prostitution or for forced labor; however, there were several reports during the year of women and girls trafficked into the country for purposes of prostitution. In most reported trafficking cases, the victims and the traffickers were foreign nationals. On March 27, authorities raided a "fitness center" and discovered a foreign couple running a brothel with women and girls who had been recruited in Thailand with promises of employment as masseuses in a legitimate fitness center. The women and girls reported that soon after their arrival in East Timor, the owners began pressuring them to take part in prostitution, revealing that their rate of pay for legitimate employment would make it impossible to pay off transportation loans of \$1,500. Most of the victims, including one 15-year-old and one 17-year-old girl, were returned to Thailand where they were offered shelter and counseling by an NGO that assists trafficking victims. Others were allowed to remain in East Timor for a limited time in order to assist in the investigation and prosecution of the traffickers. Additional investigations resulted in the discovery and closing down of several similar activities. During the year, UNMISET and the Government established a working group to monitor and control trafficking.